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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,375	11/18/2003	Albrecht Nick	7390-X03-024	4374
27317	7590	07/29/2004	EXAMINER	
FLEIT KAIN GIBBONS GUTMAN & BONGINI COURVOISIER CENTRE II, SUITE 404 601 BRICKELL KEY DRIVE MIAMI, FL 33131			LOWE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/716,375

Applicant(s)

NICK ET AL.

Examiner

M. Scott Lowe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 1-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### ***Claim Objections***

Claims 1-19 are objected to because of the following informalities: there are missing words in the claims that make them difficult to read. For example claim 1 should start with "A loading floor" rather than "Loading floor". Similar situations occur throughout the claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 & 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the first and/or second pair of guide elements" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claims 7 and 17 use the limitation "and/or" which renders the claim indefinite since it is not clear what is included. For sake of examination it is assumed the applicant meant "or" rather than "and/or".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nydam (US 3,768,673).

Re claim 1, Nydam teaches a loading floor 25 for vehicle with first guide elements 40-45 for engaging second guide elements 46,47 of the vehicle for lifting and extending loading floor, wherein the first guide elements are provisioned on the sides of the loading floor.

Re claim 2, Nydam teaches the first guide elements 40-45 are configured for engaging guide tracks formed by the second guide elements 46,47.

Re claim 3, Nydam teaches the first elements 40-45 constitute a first pair and a second pair of guide elements 40-45, where the guide elements of the first pair are configured to be accepted by first sections 46 of a guide track in a loading area of the vehicle, and the guide elements of the second pair are configured to be accepted by second sections 47 of the guide track.

Re claim 4, Nydam teaches a grip 31-33 for lifting and pulling out the loading floor by a user.

Re claim 11, Nydam teaches the first and second pairs of guide elements 40-45 spaced 0.2x to 0.4x the length of the loading floor in the pull out direction.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nydam (US 3,768,673) in view of Hems (US 4,457,663).

Re claim 5, Nydam does not teach a drive mechanism. However, Hems teaches a drive mechanism 83 for first guide elements 82, for lifting/pulling out and pulling in/lowering a loading floor 72 in order assist someone of lesser physical strength. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nydam by Hems to have a drive mechanism 83 for first guide elements 82, for lifting/pulling out and pulling in/lowering a loading floor 72 in order assist someone of lesser physical strength.

Re claim 6, Nydam as already modified teaches the drive mechanism is one of a mechanical, electromechanical, pneumatic or hydraulic drive mechanism.

Re claim 7, Nydam as already modified teaches the first or second pair of guide elements provisioned on a shaft, which is mechanically coupled to the drive mechanism.

Re claim 8, Nydam as already modified teaches at least one of the guide elements, has associated therewith a drive element.

Re claim 9, Nydam as already modified teaches the drive element being a gear wheel.

Re claim 10, Nydam as already modified teaches the drive mechanism at least partially integrated into the loading floor.

Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nydam (US 3,768,673) in view of Keister (US 6,517,137).

Re claim 12, Nydam teaches a loading apparatus for vehicle with a loading area bordered by two sidewalls, and guide elements for lifting and pulling out a loading floor. Nydam does not teach the guide elements are provisioned on or in the sidewalls of the vehicle floor. Keister teaches guide elements are provisioned on or in the sidewalls of the vehicle floor in order to maximize the usable space. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nydam by the general teaching of Keister to have guide elements provisioned either on or in the sidewalls of the vehicle floor in order to maximize the usable space.

Re claim 13, Nydam teaches the guide elements are arranged with respect to the sidewalls such that they are located above the lower side of the loading floor in its pushed-in state.

Re claim 14, Nydam as already modified teaches one guide track is formed in each sidewall with which the guide elements coact.

Re claim 15, Nydam teaches (figure 6) the guide tracks have first sections (not numbered) for accepting a first pair of guide elements of the loading floor, second sections (not numbered) for accepting a second pair of guide elements of the loading floor, and third sections (not numbered) communicating with the first and second sections for accepting the first and second pairs of guide elements, after the loading floor as been lifted and the third section serves to enable pull out the loading floor.

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Re claim 16, Nydam teaches the first and second sections are spaced approximately 0.2x to 0.4x the length of the loading floor from each other.

Re claim 17, Nydam teaches at least one of the first or second sections includes a region with a rack.

Re claim 18, Nydam teaches a member 60 for releasably arresting the loading floor in its extended position.

Re claim 19, Nydam teaches the member is mounted on the loading edge.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Linder (US 4,375,306) teaches (figure 6) rail cutouts for stopping extension of a loading floor.

Peters (US 4,681,360) teaches motorized rack and gear wheel driven floor.

Cooper (US 4,209,278) teaches curved ramps for lifting rollers of a floor.

Lutz (US 3,809,269) teaches curved ramps for lifting rollers of a floor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl

  
EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600